

HOUSE BILL 1308

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2004 Regular Session
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By: **The Speaker and Delegates D. Davis, Petzold, Hubbard, Barkley, Barve, Bobo, Bronrott, Doory, Dumais, Frush, Goldwater, Gutierrez, Heller, Hixson, Hurson, Jones, Kaiser, King, Krysiak, Lee, Madaleno, McHale, McIntosh, Menes, Moe, Montgomery, Ross, Simmons, Vaughn, and Walkup Walkup, Feldman, Gordon, Love, Mandel, Murray, Niemann, Stern, Taylor, Burns, Haddaway, Harrison, and Kirk**

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Assigned to: Economic Matters

Committee Report: Favorable with amendments
House action: Adopted with floor amendments
Read second time: March 28, 2004

CHAPTER _____

1 AN ACT concerning

2 **Electricity Regulation - Renewable Energy Portfolio Standard and Credit**
3 **Trading - Maryland Renewable Energy Fund**

4 FOR the purpose of requiring the Public Service Commission to establish renewable
5 energy portfolio standards for certain retail electricity sales during certain
6 years; requiring certain standards to be met by the accumulation of renewable
7 energy credits; providing for the eligibility of energy from certain sources under
8 certain circumstances; providing additional credit for energy from certain
9 sources for certain periods; ~~limiting the credits available from certain sources~~
10 ~~under certain circumstances~~; allowing certain ~~customers~~ persons to obtain and
11 apply certain credits in a certain manner; providing that certain persons who
12 surrender certain credits retain all rights and title to certain attributes;
13 requiring electricity suppliers to submit a certain report each year to the
14 Commission; authorizing certain electricity suppliers to demonstrate
15 compliance in certain manners; requiring electricity suppliers to pay certain
16 compliance fees under certain circumstances; providing for the recovery of
17 certain costs under certain circumstances; authorizing the Commission to waive
18 recovery of a certain fee under certain circumstances; establishing a Maryland
19 Renewable Energy Fund to be administered by the Maryland Energy
20 Administration under Commission oversight for certain purposes; requiring the
21 State Treasurer and the State Comptroller to perform certain functions related
22 to the Fund; authorizing the Fund to be used for loans and grants to eligible
23 projects; requiring the Commission to review and approve certain applications;

1 requiring the Commission to establish and maintain a renewable electricity
2 trading system that includes a certain registry; authorizing the Commission to
3 contract with another entity for a certain purpose; requiring the registry to
4 provide certain information to certain persons; authorizing the sale and transfer
5 of renewable energy credits; establishing a time limit for the existence of
6 renewable energy credits; authorizing the Commission to impose an
7 administrative fee on certain transactions; providing that the Commission has
8 certain power and authority over electricity suppliers for certain purposes;
9 requiring the Commission to report to the General Assembly each year on
10 certain matters; requiring the Commission to establish a technical advisory
11 group for certain purposes; requiring the Commission to adopt certain
12 regulations by certain dates; requiring the Commission to review certain
13 standards and matters and report its recommendations to the Governor and the
14 General Assembly on or before a certain date; specifying intents and findings of
15 the General Assembly; defining certain terms; repealing certain provisions
16 relating to a requirement that an electric company continue to purchase certain
17 electricity under certain contracts and to provide a certain percentage of
18 renewable energy sources; repealing an obsolete reporting requirement;
19 providing for a delayed effective date for certain provisions of this Act; and
20 generally relating to the establishment of renewable energy portfolio standards,
21 a renewable electricity credit trading system, and the Maryland Renewable
22 Energy Fund.

23 BY repealing and reenacting, without amendments,
24 Article - Public Utility Companies
25 Section 1-101(a) and (j)
26 Annotated Code of Maryland
27 (1998 Volume and 2003 Supplement)

28 BY repealing and reenacting, with amendments,
29 Article - Public Utility Companies
30 Section 7-516
31 Annotated Code of Maryland
32 (1998 Volume and 2003 Supplement)

33 BY adding to
34 Article - Public Utility Companies
35 Section 7-701 through 7-713 to be under the new subtitle "Subtitle 7.
36 Renewable Energy Portfolio Standard"
37 Annotated Code of Maryland
38 (1998 Volume and 2003 Supplement)

39 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
40 MARYLAND, That the Laws of Maryland read as follows:

Article - Public Utility Companies

1-101.

(a) In this article the following words have the meanings indicated.

(j) (1) "Electricity supplier" means a person:

(i) who sells:

1. electricity;
2. electricity supply services;
3. competitive billing services; or
4. competitive metering services; or

(ii) who purchases, brokers, arranges, or markets electricity or electricity supply services for sale to a retail electric customer.

(2) "Electricity supplier" includes an electric company, an aggregator, a broker, and a marketer of electricity.

(3) "Electricity supplier" does not include:

(i) the following persons who supply electricity and electricity supply services solely to occupants of a building for use by the occupants:

1. an owner/operator who holds ownership in and manages the internal distribution system serving the building; or
2. a lessee/operator who holds a leasehold interest in and manages the internal distribution system serving the building; or

(ii) a person who generates on-site generated electricity.

SUBTITLE 7. RENEWABLE ENERGY PORTFOLIO STANDARD.

7-701.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "ADMINISTRATION" MEANS THE MARYLAND ENERGY ADMINISTRATION.

(C) "FUND" MEANS THE MARYLAND RENEWABLE ENERGY FUND ESTABLISHED UNDER ~~§ 7-706~~ § 7-707 OF THIS SUBTITLE.

(D) "INDUSTRIAL PROCESS LOAD" MEANS THE CONSUMPTION OF ELECTRICITY BY A MANUFACTURING PROCESS AT AN ESTABLISHMENT CLASSIFIED

1 IN THE MANUFACTURING SECTOR UNDER THE NORTH AMERICAN INDUSTRY
2 CLASSIFICATION SYSTEM, CODES 31 THROUGH 33.

3 (E) "OLD GROWTH TIMBER" MEANS TIMBER FROM A FOREST:

4 (1) AT LEAST 5 ACRES IN SIZE WITH A PREPONDERANCE OF OLD TREES,
5 OF WHICH THE OLDEST EXCEED AT LEAST HALF THE PROJECTED MAXIMUM
6 ATTAINABLE AGE FOR THE SPECIES; AND

7 (2) THAT EXHIBITS SEVERAL OF THE FOLLOWING CHARACTERISTICS:

8 (I) SHADE-TOLERANT SPECIES ARE PRESENT IN ALL AGE AND
9 SIZE CLASSES;

10 (II) RANDOMLY DISTRIBUTED CANOPY GAPS ARE PRESENT;

11 (III) A HIGH DEGREE OF STRUCTURAL DIVERSITY CHARACTERIZED
12 BY MULTIPLE GROWTH LAYERS REFLECTING A BROAD SPECTRUM OF AGES IS
13 PRESENT;

14 (IV) AN ACCUMULATION OF DEAD WOOD OF VARYING SIZES AND
15 STAGES OF DECOMPOSITION ACCOMPANIED BY DECADENCE IN LIVE DOMINANT
16 TREES IS PRESENT; AND

17 (V) PIT AND MOUND TOPOGRAPHY CAN BE OBSERVED.

18 (F) "PJM REGION" MEANS THE CONTROL AREA ADMINISTERED BY THE PJM
19 INTERCONNECTION, INC., AS THE AREA MAY CHANGE FROM TIME TO TIME.

20 ~~(E)~~ (G) (1) "QUALIFYING BIOMASS" MEANS A ~~SOLID~~, NONHAZARDOUS,
21 ORGANIC MATERIAL THAT IS AVAILABLE ON A RENEWABLE OR RECURRING BASIS,
22 AND IS:

23 (I) WASTE MATERIAL THAT IS SEGREGATED FROM ~~OTHER SOLID~~
24 INORGANIC WASTE MATERIAL AND IS DERIVED FROM SOURCES INCLUDING:

25 1. EXCEPT FOR OLD GROWTH TIMBER, ANY OF THE
26 FOLLOWING FOREST-RELATED RESOURCES:

27 A. MILL RESIDUE;

28 B. PRECOMMERCIAL SOFT WOOD THINNING;

29 C. SLASH;

30 D. BRUSH; OR

31 E. YARD WASTE;

32 2. A PALLET, CRATE, OR DUNNAGE;

1 3. AGRICULTURAL AND SILVICULTURAL SOURCES,
2 INCLUDING TREE CROPS, VINEYARD MATERIALS, GRAIN, LEGUMES, SUGAR, AND
3 OTHER CROP BY-PRODUCTS OR RESIDUES; OR

4 4. GAS PRODUCED FROM THE ANAEROBIC DECOMPOSITION
5 OF POULTRY WASTE; OR

6 (II) A PLANT THAT IS CULTIVATED EXCLUSIVELY FOR PURPOSES
7 OF BEING USED AT A TIER 1 RENEWABLE SOURCE OR A TIER 2 RENEWABLE SOURCE
8 TO PRODUCE ELECTRICITY.

9 (2) "QUALIFYING BIOMASS" INCLUDES BIOMASS LISTED IN PARAGRAPH
10 (1) OF THIS SECTION THAT IS USED FOR CO-FIRING, SUBJECT TO ~~§ 7-704(F)~~ § 7-704(E)
11 OF THIS SUBTITLE.

12 (3) "QUALIFYING BIOMASS" DOES NOT INCLUDE:

13 (I) UNSEGREGATED SOLID WASTE OR POSTCONSUMER
14 WASTEPAPER; OR

15 (II) AN INVASIVE EXOTIC PLANT SPECIES.

16 ~~(F) "PJM REGION" MEANS THE CONTROL AREA ADMINISTERED BY THE PJM
17 INTERCONNECTION, INC., AS THE AREA MAY CHANGE FROM TIME TO TIME.~~

18 ~~(G)~~ (H) "RENEWABLE ENERGY CREDIT" OR "CREDIT" MEANS A CREDIT
19 EQUAL TO THE ~~ENVIRONMENTAL~~ GENERATION ATTRIBUTES OF 1 MEGAWATT-HOUR
20 OF ELECTRICITY THAT IS DERIVED FROM A TIER 1 RENEWABLE SOURCE OR A TIER 2
21 RENEWABLE SOURCE THAT IS LOCATED:

22 (1) IN THE PJM REGION OR IN A STATE THAT IS ADJACENT TO THE PJM
23 REGION; OR

24 (2) OUTSIDE THE AREA DESCRIBED IN ITEM (1) OF THIS SUBSECTION
25 BUT IN A CONTROL AREA THAT IS ADJACENT TO THE PJM REGION, IF THE
26 ELECTRICITY IS DELIVERED INTO THE PJM REGION.

27 ~~(H)~~ (I) "RENEWABLE ENERGY PORTFOLIO STANDARD" OR "STANDARD"
28 MEANS THE PERCENTAGE OF ELECTRICITY SALES AT RETAIL IN THE STATE THAT IS
29 TO BE DERIVED FROM TIER 1 RENEWABLE SOURCES AND TIER 2 RENEWABLE
30 SOURCES IN ACCORDANCE WITH § 7-703(B) OF THIS SUBTITLE.

31 (J) "RENEWABLE ON-SITE GENERATOR" MEANS A PERSON WHO GENERATES
32 ELECTRICITY ON SITE FROM A TIER 1 RENEWABLE SOURCE OR A TIER 2 RENEWABLE
33 SOURCE FOR THE PERSON'S OWN USE.

34 ~~(I)~~ (K) "TIER 1 RENEWABLE SOURCE" MEANS ONE OR MORE OF THE
35 FOLLOWING TYPES OF ENERGY SOURCES:

36 (1) SOLAR;

- 1 (2) WIND;
- 2 (3) QUALIFYING BIOMASS;
- 3 (4) METHANE FROM THE ANAEROBIC DECOMPOSITION OF ORGANIC
4 MATERIALS IN A LANDFILL OR WASTEWATER TREATMENT PLANT;
- 5 (5) GEOTHERMAL;
- 6 (6) OCEAN, INCLUDING ENERGY FROM WAVES, TIDES, CURRENTS, AND
7 THERMAL DIFFERENCES; AND
- 8 (7) A FUEL CELL THAT PRODUCES ELECTRICITY FROM A TIER 1
9 RENEWABLE SOURCE UNDER ITEM (3) OR (4) OF THIS SUBSECTION.

10 ~~(F)~~ (L) "TIER 2 RENEWABLE SOURCE" MEANS ONE OR MORE OF THE
11 FOLLOWING TYPES OF ENERGY SOURCES:

- 12 (1) HYDROELECTRIC POWER OTHER THAN PUMP STORAGE
13 GENERATION;
- 14 ~~(2)~~ (2) ~~THERMAL DECOMPOSITION~~ INCINERATION OF POULTRY LITTER;
15 AND
- 16 ~~(3)~~ (3) WASTE-TO-ENERGY.

17 7-702.

18 (A) IT IS THE INTENT OF THE GENERAL ASSEMBLY TO:

- 19 (1) RECOGNIZE THE ECONOMIC, ENVIRONMENTAL, FUEL DIVERSITY,
20 AND SECURITY BENEFITS OF RENEWABLE ENERGY RESOURCES;
- 21 (2) ESTABLISH A MARKET FOR ELECTRICITY FROM THESE RESOURCES
22 IN MARYLAND; AND
- 23 (3) LOWER THE COST TO CONSUMERS OF ELECTRICITY PRODUCED
24 FROM THESE RESOURCES.

25 (B) THE GENERAL ASSEMBLY FINDS THAT:

- 26 (1) THE BENEFITS OF ELECTRICITY FROM RENEWABLE ENERGY
27 RESOURCES, INCLUDING LONG-TERM DECREASED EMISSIONS, A HEALTHIER
28 ENVIRONMENT, INCREASED ENERGY SECURITY, AND DECREASED RELIANCE ON AND
29 VULNERABILITY FROM IMPORTED ENERGY SOURCES, ACCRUE TO THE PUBLIC AT
30 LARGE; AND
- 31 (2) ELECTRICITY SUPPLIERS AND CONSUMERS SHARE AN OBLIGATION
32 TO DEVELOP A MINIMUM LEVEL OF THESE RESOURCES IN THE ELECTRICITY SUPPLY
33 PORTFOLIO OF THE STATE.

1 7-703.

2 (A) (1) (I) THE COMMISSION SHALL IMPLEMENT A RENEWABLE ENERGY
3 PORTFOLIO STANDARD THAT, EXCEPT AS PROVIDED UNDER PARAGRAPH (2) OF THIS
4 SUBSECTION, APPLIES TO ALL RETAIL ELECTRICITY SALES IN THE STATE BY
5 ELECTRICITY SUPPLIERS.

6 (II) IF THE STANDARD BECOMES APPLICABLE TO ELECTRICITY
7 SOLD TO A CUSTOMER AFTER THE START OF A CALENDAR YEAR, THE STANDARD
8 DOES NOT APPLY TO ELECTRICITY SOLD TO THE CUSTOMER DURING THAT PORTION
9 OF THE YEAR BEFORE THE STANDARD BECAME APPLICABLE.

10 (2) A RENEWABLE ENERGY PORTFOLIO STANDARD MAY NOT APPLY TO
11 ELECTRICITY SALES AT RETAIL BY ANY ELECTRICITY SUPPLIER:

12 (I) IN EXCESS OF 300,000,000 KILOWATT-HOURS OF INDUSTRIAL
13 PROCESS LOAD TO A SINGLE CUSTOMER IN A YEAR;

14 (II) TO RESIDENTIAL CUSTOMERS IN A REGION OF THE STATE IN
15 WHICH ELECTRICITY PRICES FOR RESIDENTIAL CUSTOMERS ARE SUBJECT TO A
16 FREEZE OR CAP CONTAINED IN A SETTLEMENT AGREEMENT ENTERED INTO UNDER
17 § 7-505 OF THIS TITLE UNTIL THE FREEZE OR CAP HAS EXPIRED; OR

18 (III) TO A CUSTOMER SERVED BY AN ELECTRIC COOPERATIVE
19 UNDER AN ELECTRICITY SUPPLIER PURCHASE AGREEMENT THAT EXISTED ON
20 OCTOBER 1, 2004, UNTIL THE EXPIRATION OF THE AGREEMENT.

21 (B) THE RENEWABLE ENERGY PORTFOLIO STANDARD SHALL BE AS FOLLOWS:

22 (1) IN 2006, 1% FROM TIER 1 RENEWABLE SOURCES AND 2.5% FROM TIER
23 2 RENEWABLE SOURCES;

24 (2) IN 2007, 1.5% FROM TIER 1 RENEWABLE SOURCES AND 2.5% FROM
25 TIER 2 RENEWABLE SOURCES;

26 (3) IN 2008, 2% FROM TIER 1 RENEWABLE SOURCES AND 2.5% FROM TIER
27 2 RENEWABLE SOURCES;

28 (4) IN 2009, 2.5% FROM TIER 1 RENEWABLE SOURCES AND 2.5% FROM
29 TIER 2 RENEWABLE SOURCES;

30 (5) IN 2010, 3% FROM TIER 1 RENEWABLE SOURCES AND 2.5% FROM TIER
31 2 RENEWABLE SOURCES;

32 (6) IN 2011, 3.5% FROM TIER 1 RENEWABLE SOURCES AND 2.5% FROM
33 TIER 2 RENEWABLE SOURCES;

34 (7) IN 2012, 4% FROM TIER 1 RENEWABLE SOURCES AND 2.5% FROM TIER
35 2 RENEWABLE SOURCES;

1 (8) IN 2013, 4.5% FROM TIER 1 RENEWABLE SOURCES AND 2.5% FROM
2 TIER 2 RENEWABLE SOURCES;

3 (9) IN 2014, 5% FROM TIER 1 RENEWABLE SOURCES AND 2.5% FROM TIER
4 2 RENEWABLE SOURCES;

5 (10) IN 2015, 5.5% FROM TIER 1 RENEWABLE SOURCES AND ~~2%~~ 2.5% FROM
6 TIER 2 RENEWABLE SOURCES;

7 (11) IN 2016, 6% FROM TIER 1 RENEWABLE SOURCES AND ~~4.5%~~ 2.5% FROM
8 TIER 2 RENEWABLE SOURCES;

9 (12) IN 2017, 6.5% FROM TIER 1 RENEWABLE SOURCES AND ~~4%~~ 2.5% FROM
10 TIER 2 RENEWABLE SOURCES;

11 (13) IN 2018, 7% FROM TIER 1 RENEWABLE SOURCES AND ~~0.5%~~ 2.5% FROM
12 TIER 2 RENEWABLE SOURCES; AND

13 (14) IN 2019 AND LATER, 7.5% FROM TIER 1 RENEWABLE SOURCES AND 0%
14 FROM TIER 2 RENEWABLE SOURCES.

15 (C) BEFORE CALCULATING THE NUMBER OF CREDITS REQUIRED TO MEET
16 THE PERCENTAGES ESTABLISHED UNDER SUBSECTION (B) OF THIS SECTION, AN
17 ELECTRICITY SUPPLIER SHALL EXCLUDE FROM ITS TOTAL RETAIL ELECTRICITY
18 SALES ALL RETAIL ELECTRICITY SALES DESCRIBED IN SUBSECTION (A)(2) OF THIS
19 SECTION.

20 (D) SUBJECT TO SUBSECTIONS (A) AND (C) OF THIS SECTION, AN ELECTRICITY
21 SUPPLIER SHALL MEET THE RENEWABLE ENERGY PORTFOLIO STANDARD BY
22 ACCUMULATING THE EQUIVALENT AMOUNT OF RENEWABLE ENERGY CREDITS THAT
23 EQUAL THE PERCENTAGE REQUIRED UNDER THIS SECTION.

24 7-704.

25 (A) (1) ENERGY FROM A TIER 1 RENEWABLE SOURCE:

26 (I) IS ELIGIBLE FOR INCLUSION IN MEETING THE RENEWABLE
27 ENERGY PORTFOLIO STANDARD REGARDLESS OF WHEN THE GENERATING SYSTEM
28 OR FACILITY WAS PLACED IN SERVICE; AND

29 (II) MAY BE APPLIED TO THE PERCENTAGE REQUIREMENTS OF THE
30 STANDARD FOR EITHER TIER 1 RENEWABLE SOURCES OR TIER 2 RENEWABLE
31 SOURCES.

32 (2) (I) ENERGY FROM A TIER 2 RENEWABLE SOURCE UNDER §
33 7-701(L)(1) OR (3) OF THIS SUBTITLE IS ELIGIBLE FOR INCLUSION IN MEETING THE
34 RENEWABLE ENERGY PORTFOLIO STANDARD THROUGH 2018 IF IT IS GENERATED AT
35 A SYSTEM OR FACILITY THAT EXISTED AND WAS OPERATIONAL AS OF JANUARY 1,
36 2004, EVEN IF THE FACILITY OR SYSTEM WAS NOT CAPABLE OF GENERATING
37 ELECTRICITY ON THAT DATE.

1 (II) ENERGY FROM A TIER 2 RENEWABLE SOURCE UNDER §
2 7-701(L)(2) OF THIS SUBTITLE IS ELIGIBLE FOR INCLUSION IN MEETING THE
3 RENEWABLE ENERGY PORTFOLIO STANDARD REGARDLESS OF WHEN THE
4 GENERATING SYSTEM WAS PLACED IN SERVICE.

5 (B) ON OR AFTER JANUARY 1, 2004, AN ELECTRICITY SUPPLIER MAY:

6 (1) RECEIVE RENEWABLE ENERGY CREDITS; AND

7 (2) ACCUMULATE RENEWABLE ENERGY CREDITS UNDER THIS
8 SUBTITLE.

9 (C) AN ELECTRICITY SUPPLIER SHALL RECEIVE DOUBLE CREDIT TOWARD
10 MEETING THE RENEWABLE ENERGY PORTFOLIO STANDARD FOR ENERGY DERIVED
11 FROM SOLAR ENERGY.

12 (D) (1) THIS SUBSECTION APPLIES ONLY TO A GENERATING FACILITY THAT
13 IS PLACED IN SERVICE ON OR AFTER JANUARY 1, 2004.

14 (2) (I) ON OR BEFORE DECEMBER 31, 2005, AN ELECTRICITY SUPPLIER
15 SHALL RECEIVE 120% CREDIT TOWARD MEETING THE RENEWABLE ENERGY
16 PORTFOLIO STANDARD FOR ENERGY DERIVED FROM WIND.

17 (II) AFTER DECEMBER 31, 2005, AND ON OR BEFORE DECEMBER 31,
18 2008, AN ELECTRICITY SUPPLIER SHALL RECEIVE 110% CREDIT TOWARD MEETING
19 THE RENEWABLE ENERGY PORTFOLIO STANDARD FOR ENERGY DERIVED FROM
20 WIND.

21 (3) ON OR BEFORE DECEMBER 31, 2008, AN ELECTRICITY SUPPLIER
22 SHALL RECEIVE 110% CREDIT TOWARD MEETING THE RENEWABLE ENERGY
23 PORTFOLIO STANDARD FOR ENERGY DERIVED FROM METHANE UNDER ~~§ 7-701(I)(4)~~ §
24 7-701(K)(4) OF THIS SUBTITLE.

25 ~~(E) (+) AN ELECTRICITY SUPPLIER MAY NOT USE THE INCINERATION OF~~
26 ~~SOLID WASTE TO MEET MORE THAN 20% OF THE STANDARD FOR TIER 2 RENEWABLE~~
27 ~~SOURCES FOR A GIVEN YEAR.~~

28 ~~(2) AFTER DECEMBER 31, 2012, AN ELECTRICITY SUPPLIER MAY NOT~~
29 ~~RECEIVE A RENEWABLE ENERGY CREDIT FROM THE INCINERATION OF SOLID~~
30 ~~WASTE.~~

31 ~~(F)~~ (E) AN ELECTRICITY SUPPLIER SHALL RECEIVE CREDIT TOWARD
32 MEETING THE RENEWABLE ENERGY PORTFOLIO STANDARD FOR ELECTRICITY
33 DERIVED FROM THE BIOMASS FRACTION OF BIOMASS CO-FIRED WITH OTHER
34 FUELS.

35 ~~(G)~~ (F) (1) IN THIS SUBSECTION, "CUSTOMER" MEANS:

36 (I) AN INDUSTRIAL ELECTRIC CUSTOMER THAT IS NOT ON
37 STANDARD OFFER SERVICE; OR

1 (II) A RENEWABLE ON-SITE GENERATOR.

2 (2) (I) A CUSTOMER MAY INDEPENDENTLY ACQUIRE RENEWABLE
3 ENERGY CREDITS TO SATISFY THE STANDARDS APPLICABLE TO THE CUSTOMER'S
4 LOAD, INCLUDING CREDITS CREATED BY A RENEWABLE ON-SITE GENERATOR.

5 (II) EXCEPT AS PROVIDED IN SUBPARAGRAPH (III)1 OF THIS
6 PARAGRAPH, THE CUSTOMER SHALL SURRENDER THE CREDITS NECESSARY TO
7 MEET THE STANDARD TO ITS ELECTRICITY SUPPLIER FOR INCLUSION IN THE
8 ELECTRICITY SUPPLIER'S COMPLIANCE REPORT UNDER § 7-705 OF THIS SUBTITLE.

9 (III) 1. CREDITS THAT A CUSTOMER SURRENDERS TO ITS
10 ELECTRICITY SUPPLIER TO MEET THE STANDARD AND THAT THE ELECTRICITY
11 SUPPLIER RELIES ON IN SUBMITTING ITS COMPLIANCE REPORT MAY NOT BE RESOLD
12 OR RETRANSFERRED BY THE CUSTOMER OR BY THE ELECTRICITY SUPPLIER.

13 2. THE CUSTOMER MAY RETAIN OR TRANSFER ANY CREDITS
14 IN EXCESS OF THE AMOUNT NEEDED TO SATISFY THE STANDARD FOR THE
15 CUSTOMER'S LOAD.

16 (IV) A CUSTOMER WHO SURRENDERS CREDITS UNDER THIS
17 SUBSECTION RETAINS ALL RIGHTS AND TITLE TO ANY ENVIRONMENTAL OR OTHER
18 ATTRIBUTES ASSOCIATED WITH THE CREDITS, INCLUDING EMISSION REDUCTIONS
19 OR RELATED ALLOWANCES.

20 (3) A RENEWABLE ON-SITE GENERATOR SHALL RECEIVE CREDIT FOR
21 THE PORTION OF ITS ON-SITE GENERATION FROM A TIER 1 RENEWABLE SOURCE OR
22 A TIER 2 RENEWABLE SOURCE THAT DISPLACES THE PURCHASE OF ELECTRICITY BY
23 THE RENEWABLE ON-SITE GENERATOR FROM THE GRID.

24 ~~(3)~~ (4) A CUSTOMER THAT SATISFIES THE STANDARD APPLICABLE TO
25 THE CUSTOMER'S LOAD UNDER THIS SUBSECTION MAY NOT BE REQUIRED TO
26 CONTRIBUTE TO A COMPLIANCE FEE RECOVERED UNDER § 7-706 OF THIS SUBTITLE.

27 ~~(4)~~ (5) THE COMMISSION SHALL ADOPT REGULATIONS GOVERNING
28 THE APPLICATION AND TRANSFER OF CREDITS UNDER THIS SUBSECTION
29 CONSISTENT WITH FEDERAL LAW.

30 ~~(H)~~ (G) (1) IN ORDER TO CREATE A RENEWABLE ENERGY CREDIT, A TIER 1
31 RENEWABLE SOURCE OR TIER 2 RENEWABLE SOURCE MUST SUBSTANTIALLY
32 COMPLY WITH ALL APPLICABLE ENVIRONMENTAL AND ADMINISTRATIVE
33 REQUIREMENTS, INCLUDING AIR QUALITY, WATER QUALITY, SOLID WASTE, AND
34 RIGHT-TO-KNOW PROVISIONS, PERMIT CONDITIONS, AND ADMINISTRATIVE ORDERS.

35 (2) (I) THIS PARAGRAPH APPLIES TO TIER 2 RENEWABLE SOURCES
36 THAT INCINERATE SOLID WASTE.

37 (II) AT LEAST 80% OF THE SOLID WASTE INCINERATED AT A TIER 2
38 RENEWABLE SOURCE FACILITY SHALL BE COLLECTED FROM:

1 1. FOR AREAS IN MARYLAND, JURISDICTIONS THAT ACHIEVE
2 THE RECYCLING RATES REQUIRED UNDER § 9-505 OF THE ENVIRONMENT ARTICLE;
3 AND

4 2. FOR OTHER STATES, JURISDICTIONS FOR WHICH THE
5 ELECTRICITY SUPPLIER DEMONSTRATES RECYCLING SUBSTANTIALLY COMPARABLE
6 TO THAT REQUIRED UNDER § 9-505 OF THE ENVIRONMENT ARTICLE, IN
7 ACCORDANCE WITH REGULATIONS OF THE COMMISSION.

8 (III) AN ELECTRICITY SUPPLIER MAY REPORT CREDITS RECEIVED
9 UNDER THIS PARAGRAPH BASED ON COMPLIANCE BY THE FACILITY WITH THE
10 PERCENTAGE REQUIREMENT OF SUBPARAGRAPH (II) OF THIS PARAGRAPH DURING
11 THE YEAR IMMEDIATELY PRECEDING THE YEAR IN WHICH THE ELECTRICITY
12 SUPPLIER RECEIVES THE CREDIT TO APPLY TO THE STANDARD.

13 7-705.

14 (A) EACH ELECTRICITY SUPPLIER SHALL SUBMIT A REPORT TO THE
15 COMMISSION EACH YEAR IN A FORM AND BY A DATE SPECIFIED BY THE COMMISSION
16 THAT:

17 (1) DEMONSTRATES THAT THE ELECTRICITY SUPPLIER HAS COMPLIED
18 WITH THE APPLICABLE RENEWABLE ENERGY PORTFOLIO STANDARD UNDER § 7-703
19 OF THIS SUBTITLE AND INCLUDES THE SUBMISSION OF THE REQUIRED AMOUNT OF
20 RENEWABLE ENERGY CREDITS; OR

21 (2) DEMONSTRATES THE AMOUNT OF ELECTRICITY SALES BY WHICH
22 THE ELECTRICITY SUPPLIER FAILED TO MEET THE APPLICABLE RENEWABLE
23 ENERGY PORTFOLIO STANDARD.

24 (B) IF AN ELECTRICITY SUPPLIER FAILS TO COMPLY WITH THE RENEWABLE
25 ENERGY PORTFOLIO STANDARD FOR THE APPLICABLE YEAR, THE ELECTRICITY
26 SUPPLIER SHALL PAY INTO THE MARYLAND RENEWABLE ENERGY FUND
27 ESTABLISHED UNDER ~~§ 7-706~~ § 7-707 OF THIS SUBTITLE A COMPLIANCE FEE OF:

28 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION:

29 (I) 2 CENTS FOR EACH KILOWATT-HOUR OF SHORTFALL FROM
30 REQUIRED TIER 1 RENEWABLE SOURCES; AND

31 (II) 1.5 CENTS FOR EACH KILOWATT-HOUR OF SHORTFALL FROM
32 REQUIRED TIER 2 RENEWABLE SOURCES; OR

33 (2) FOR INDUSTRIAL PROCESS LOAD:

34 ~~(I) 1 CENT FOR EACH KILOWATT-HOUR OF SHORTFALL FROM~~
35 ~~REQUIRED TIER 1 RENEWABLE SOURCES; AND~~

36 ~~(II) 0.75 CENT FOR EACH KILOWATT HOUR OF SHORTFALL FROM~~
37 ~~REQUIRED TIER 2 RENEWABLE SOURCES.~~

1 (I) FOR EACH KILOWATT-HOUR OF SHORTFALL FROM REQUIRED
2 TIER 1 RENEWABLE SOURCES:

3 1. 0.8 CENTS IN 2006, 2007, AND 2008;

4 2. 0.5 CENTS IN 2009 AND 2010;

5 3. 0.4 CENTS IN 2011 AND 2012;

6 4. 0.3 CENTS IN 2013 AND 2014;

7 5. 0.25 CENTS IN 2015 AND 2016; AND

8 6. 0.2 CENTS IN 2017 AND LATER; AND

9 (II) NOTHING FOR ANY SHORTFALL FROM REQUIRED TIER 2
10 RENEWABLE SOURCES.

11 (C) THE COMMISSION MAY ALLOW AN ELECTRICITY SUPPLIER TO SUBMIT
12 THE REPORT REQUIRED UNDER § 7-505(B)(4) OF THIS TITLE TO DEMONSTRATE
13 COMPLIANCE WITH THE RENEWABLE ENERGY PORTFOLIO STANDARD.

14 (D) AN AGGREGATOR OR BROKER WHO ASSISTS AN ELECTRICITY CUSTOMER
15 IN PURCHASING ELECTRICITY BUT WHO DOES NOT SUPPLY THE ELECTRICITY OR
16 TAKE TITLE TO OR OWNERSHIP OF THE ELECTRICITY MAY REQUIRE THE
17 ELECTRICITY SUPPLIER ~~FROM WHICH THE AGGREGATOR OR BROKER PROCURES~~
18 WHO GENERATES THE ELECTRICITY, AND WHICH IS NOT ITSELF ACTING AS AN
19 ~~AGGREGATOR OR BROKER IN THE PROCUREMENT,~~ TO DEMONSTRATE COMPLIANCE
20 WITH THIS SUBTITLE.

21 7-706.

22 (A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IN
23 ACCORDANCE WITH THE OBLIGATION TO PROVIDE STANDARD OFFER SERVICE
24 UNDER § 7-510 OF THIS TITLE, THE COMMISSION SHALL ALLOW AN ELECTRICITY
25 SUPPLIER TO RECOVER ACTUAL DOLLAR-FOR-DOLLAR COSTS INCURRED,
26 INCLUDING A COMPLIANCE FEE UNDER § 7-705 OF THIS SUBTITLE, IN COMPLYING
27 WITH A STATE-MANDATED RENEWABLE ENERGY PORTFOLIO STANDARD.

28 (2) IN ACCORDANCE WITH THE PHASE II SETTLEMENT AGREEMENT
29 APPROVED BY THE COMMISSION IN ORDER NO. 78710 IN CASE NO. 8908 ON
30 SEPTEMBER 30, 2003, FOR ANY FULL-SERVICE AGREEMENT EXECUTED BEFORE THE
31 RENEWABLE ENERGY STANDARD UNDER THIS SUBTITLE APPLIES TO AN ELECTRIC
32 COMPANY, THE ELECTRIC COMPANY AND ITS WHOLESALE ELECTRICITY SUPPLIERS
33 MAY PASS THROUGH THEIR COMMERCIALLY REASONABLE ADDITIONAL COSTS, IF
34 ANY, ASSOCIATED WITH COMPLYING WITH THE STANDARD, THROUGH THE END OF
35 THE YEAR OF STANDARD OFFER SERVICE IN WHICH THE REQUIREMENT TOOK
36 EFFECT.

37 (B) AN ELECTRICITY SUPPLIER MAY RECOVER A COMPLIANCE FEE IF:

1 (1) THE PAYMENT OF A COMPLIANCE FEE IS THE LEAST-COST MEASURE
2 TO CUSTOMERS AS COMPARED TO THE PURCHASE OF TIER 1 RENEWABLE SOURCES
3 TO COMPLY WITH A RENEWABLE ENERGY PORTFOLIO STANDARD;

4 (2) THERE ARE INSUFFICIENT TIER 1 RENEWABLE SOURCES AVAILABLE
5 FOR THE ELECTRICITY SUPPLIER TO COMPLY WITH A RENEWABLE ENERGY
6 PORTFOLIO STANDARD; OR

7 (3) A WHOLESALE ELECTRICITY SUPPLIER DEFAULTS OR OTHERWISE
8 FAILS TO DELIVER RENEWABLE ENERGY CREDITS UNDER A SUPPLY CONTRACT
9 APPROVED BY THE COMMISSION.

10 (C) ANY COST RECOVERY UNDER THIS SECTION:

11 (1) FOR ALL ELECTRICITY SUPPLIERS, MAY BE IN THE FORM OF A
12 GENERATION SURCHARGE PAYABLE BY ALL CURRENT ELECTRICITY SUPPLY
13 CUSTOMERS, EXCEPT AS OTHERWISE PROVIDED IN § 7-704(F) OF THIS SUBTITLE;

14 (2) SHALL BE DISCLOSED TO CUSTOMERS IN A MANNER TO BE
15 DETERMINED BY THE COMMISSION; AND

16 (3) MAY NOT INCLUDE THE COSTS FOR A POWER PURCHASE CONTRACT
17 UNDER THE FEDERAL PUBLIC UTILITY REGULATORY POLICY ACT CONTEMPLATED IN
18 RATES OR RESTRUCTURING PROCEEDINGS.

19 (D) (1) IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE
20 COMMISSION IN CONSULTATION WITH THE DEPARTMENT OF BUSINESS AND
21 ECONOMIC DEVELOPMENT, THE COMMISSION MAY WAIVE THE RECOVERY OF ALL OR
22 PART OF THE COMPLIANCE FEE ASSESSED ON THE LOAD OF A PARTICULAR
23 INDUSTRIAL OR COMMERCIAL CUSTOMER IN A YEAR BASED ON HARDSHIP.

24 (2) ANY COMPLIANCE FEE RECOVERY THAT IS WAIVED UNDER THIS
25 SUBSECTION MAY NOT BE ASSESSED AGAINST OTHER CUSTOMERS.

26 7-707.

27 (A) THERE IS A MARYLAND RENEWABLE ENERGY FUND.

28 (B) THE PURPOSE OF THE FUND IS TO ENCOURAGE THE DEVELOPMENT OF
29 RESOURCES TO GENERATE RENEWABLE ENERGY IN THE STATE.

30 (C) SUBJECT TO OVERSIGHT BY THE COMMISSION, THE ADMINISTRATION
31 SHALL ADMINISTER THE FUND.

32 (D) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT
33 TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

34 (2) THE TREASURER SHALL HOLD THE FUND SEPARATELY AND THE
35 COMPTROLLER SHALL ACCOUNT FOR THE FUND.

36 (E) THE FUND CONSISTS OF:

- 1 (1) COMPLIANCE FEES PAID UNDER § 7-705 OF THIS SUBTITLE;
- 2 (2) PAYMENTS RECEIVED IN REPAYMENT OF A LOAN;
- 3 (3) INVESTMENT EARNINGS OF THE FUND; AND
- 4 (4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE
5 BENEFIT OF THE FUND.

6 (F) (1) THE FUND MAY BE USED ONLY TO MAKE LOANS AND GRANTS TO
7 SUPPORT THE CREATION OF NEW TIER 1 RENEWABLE ENERGY SOURCES IN THE
8 STATE.

9 (2) BY REGULATION THE COMMISSION SHALL ADOPT ELIGIBILITY
10 CRITERIA FOR PROJECTS SUPPORTED BY THE FUND.

11 (3) (I) THE ADMINISTRATION SHALL RECEIVE AND REVIEW
12 APPLICATIONS FOR LOANS AND GRANTS FOR ELIGIBLE PROJECTS.

13 (II) THE ADMINISTRATION SHALL APPROVE OR DISAPPROVE
14 APPLICATIONS FOR LOANS AND GRANTS FROM THE FUND.

15 (4) THE COMMISSION MAY ALLOW THE USE OF MONEY OF THE FUND
16 FOR ADMINISTRATIVE EXPENSES RELATED TO THE FUND AND PROJECT REVIEW AND
17 OVERSIGHT.

18 (G) (1) THE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE
19 SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

20 (2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE CREDITED TO
21 THE FUND.

22 7-708.

23 (A) (1) THE COMMISSION SHALL ESTABLISH AND MAINTAIN A
24 MARKET-BASED RENEWABLE ELECTRICITY TRADING SYSTEM TO FACILITATE THE
25 CREATION AND TRANSFER OF RENEWABLE ENERGY CREDITS.

26 (2) TO THE EXTENT PRACTICABLE, THE TRADING SYSTEM SHALL BE
27 CONSISTENT WITH AND OPERATE IN CONJUNCTION WITH THE TRADING SYSTEM
28 DEVELOPED BY PJM INTERCONNECTION, INC., IF AVAILABLE.

29 (3) THE COMMISSION MAY CONTRACT WITH A FOR-PROFIT OR A
30 NONPROFIT ENTITY TO ASSIST IN THE ADMINISTRATION OF THE ELECTRICITY
31 TRADING SYSTEM REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

32 (B) (1) THE SYSTEM SHALL INCLUDE A REGISTRY OF PERTINENT
33 INFORMATION REGARDING ALL:

34 (I) AVAILABLE RENEWABLE ENERGY CREDITS; AND

1 (II) RENEWABLE ENERGY CREDIT TRANSACTIONS AMONG
2 ELECTRICITY SUPPLIERS IN THE STATE, INCLUDING:

3 1. THE CREATION AND APPLICATION OF RENEWABLE
4 ENERGY CREDITS;

5 2. THE NUMBER OF RENEWABLE ENERGY CREDITS SOLD OR
6 TRANSFERRED; AND

7 3. THE PRICE PAID FOR THE SALE OR TRANSFER OF
8 RENEWABLE ENERGY CREDITS.

9 (2) (I) THE REGISTRY SHALL PROVIDE CURRENT INFORMATION TO
10 ELECTRICITY SUPPLIERS AND THE PUBLIC ON THE STATUS OF RENEWABLE ENERGY
11 CREDITS CREATED, SOLD, OR TRANSFERRED IN THE STATE.

12 (II) REGISTRY INFORMATION SHALL BE AVAILABLE BY COMPUTER
13 NETWORK ACCESS THROUGH THE INTERNET.

14 7-709.

15 (A) AN ELECTRICITY SUPPLIER MAY USE ACCUMULATED RENEWABLE
16 ENERGY CREDITS TO MEET THE RENEWABLE ENERGY PORTFOLIO STANDARD,
17 INCLUDING CREDITS CREATED BY A RENEWABLE ON-SITE GENERATOR.

18 (B) A RENEWABLE ENERGY CREDIT MAY BE SOLD OR OTHERWISE
19 TRANSFERRED.

20 (C) (1) EXCEPT AS AUTHORIZED UNDER PARAGRAPH (2) OF THIS
21 SUBSECTION, A RENEWABLE ENERGY CREDIT SHALL EXIST FOR 3 YEARS FROM THE
22 DATE CREATED.

23 (2) A RENEWABLE ENERGY CREDIT MAY BE DIMINISHED OR
24 EXTINGUISHED BEFORE THE EXPIRATION OF 3 YEARS BY:

25 (I) THE ELECTRICITY SUPPLIER THAT RECEIVED THE CREDIT;

26 (II) A NONAFFILIATED ENTITY OF THE ELECTRICITY SUPPLIER:

27 1. THAT PURCHASED THE CREDIT FROM THE ELECTRICITY
28 SUPPLIER RECEIVING THE CREDIT; OR

29 2. TO WHOM THE ELECTRICITY SUPPLIER OTHERWISE
30 TRANSFERRED THE CREDIT; OR

31 (III) DEMONSTRATED NONCOMPLIANCE BY THE GENERATING
32 FACILITY WITH THE REQUIREMENTS OF § 7-704(G) OF THIS SUBTITLE.

33 (D) NOTWITHSTANDING SUBSECTION (C)(2)(III) OF THIS SECTION, AND ONLY
34 IF THE DEMONSTRATED NONCOMPLIANCE DOES NOT RESULT IN ENVIRONMENTAL
35 DEGRADATION, AN ELECTRICITY SUPPLIER THAT REASONABLY INCLUDES IN ITS

1 ANNUAL REPORT UNDER § 7-705 OF THIS SUBTITLE A RENEWABLE ENERGY CREDIT
2 THAT IS EXTINGUISHED FOR NONCOMPLIANCE WITH § 7-704(G)(1) OR (2) OF THIS
3 SUBTITLE:

4 (1) MAY CONTINUE TO RELY ON THAT CREDIT FOR THAT YEAR; BUT

5 (2) FOR LATER YEARS MUST:

6 (I) DEMONSTRATE A RETURN TO COMPLIANCE OF THE
7 GENERATING FACILITY UNDER § 7-704(G) OF THIS SUBTITLE; OR

8 (II) REPLACE THE CREDIT WITH A RENEWABLE ENERGY CREDIT
9 FROM ANOTHER SOURCE.

10 (E) THE COMMISSION BY REGULATION SHALL ESTABLISH REQUIREMENTS
11 FOR DOCUMENTATION AND VERIFICATION OF RENEWABLE ENERGY CREDITS BY
12 LICENSED ELECTRICITY SUPPLIERS AND OTHER GENERATORS THAT CREATE AND
13 RECEIVE CREDITS FOR COMPLIANCE WITH THE STANDARDS FOR TIER 1 RENEWABLE
14 SOURCES AND TIER 2 RENEWABLE SOURCES.

15 7-710.

16 THE COMMISSION MAY IMPOSE AN ADMINISTRATIVE FEE ON A RENEWABLE
17 ENERGY CREDIT TRANSACTION, BUT THE AMOUNT OF THE FEE MAY NOT EXCEED
18 THE COMMISSION'S ACTUAL DIRECT COST OF PROCESSING THE TRANSACTION.

19 7-711.

20 THE COMMISSION HAS THE SAME POWER AND AUTHORITY WITH RESPECT TO
21 AN ELECTRICITY SUPPLIER UNDER THIS SUBTITLE THAT THE COMMISSION HAS
22 WITH RESPECT TO ANY PUBLIC SERVICE COMPANY UNDER THIS ARTICLE FOR THE
23 PURPOSES OF INVESTIGATING AND EXAMINING THE ELECTRICITY SUPPLIER TO
24 DETERMINE COMPLIANCE WITH THIS SUBTITLE AND WITH OTHER APPLICABLE LAW.

25 7-712.

26 SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON OR BEFORE
27 FEBRUARY 1 OF EACH YEAR THE COMMISSION SHALL REPORT TO THE GENERAL
28 ASSEMBLY ON THE STATUS OF IMPLEMENTATION OF THIS SUBTITLE, INCLUDING
29 THE AVAILABILITY OF TIER 1 RENEWABLE SOURCES, PROJECTS SUPPORTED BY THE
30 FUND, AND OTHER PERTINENT INFORMATION.

31 7-713.

32 THE COMMISSION SHALL ADOPT REGULATIONS TO IMPLEMENT THE
33 PROVISIONS OF THIS SUBTITLE.

34 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
35 read as follows:

Article - Public Utility Companies

1
2 7-516.

3 [(a) An electric company shall continue to purchase electricity under any
4 contract in effect on January 1, 1999, with a renewable energy resource facility
5 located in the State until the later of the expiration of the contract or the expiration or
6 satisfaction of bonds existing on January 1, 1999, supporting the facility.

7 (b) An investor-owned electric company shall continue to provide at least the
8 same percentage of electricity from available renewable energy resources, at a
9 reasonably comparable cost, as the electric company provided in 1998.

10 (c) On or before February 1, 2000, the Commission, in consultation with the
11 Maryland Energy Administration, shall report to the Governor and, subject to §
12 2-1246 of the State Government Article, to the General Assembly on the feasibility of
13 requiring a renewables portfolio standard, including the feasibility and structure of a
14 two-tiered standard, and the estimated costs and benefits of establishing this
15 requirement.]

16 [(d)] (A) (1) [(i)] In recognition of the potential environmental impacts of
17 restructuring the electric industry, it is the intent of the General Assembly to
18 minimize the effects of electric restructuring on the environment.

19 [(ii)] (2) Electric companies in Maryland shall conduct a study that
20 tracks shifts in generation and emissions as a result of restructuring the electric
21 industry.

22 [(iii)] (3) The study shall be submitted to the Department of the
23 Environment and the Commission one year after the initial date of implementation of
24 customer choice.

25 [(iv)] (4) Electric companies in Maryland shall update the study
26 twice and submit each updated study to the Department of the Environment and the
27 Commission on or before December 31, 2003 and on or before December 31, 2005.

28 [(2)] (B) If, after review of the study required under paragraph (1) of this
29 subsection, the Department of the Environment determines that the emissions levels
30 impose a higher emission burden in Maryland, the Department of the Environment,
31 in consultation with the Commission, shall study the appropriateness,
32 constitutionality, and feasibility of establishing an air quality surcharge or other
33 mechanism to protect Maryland's environment in connection with the
34 implementation of customer choice of electricity suppliers.

35 SECTION 3. AND BE IT FURTHER ENACTED, That:

36 (a) (1) On or before October 1, 2004, the Public Service Commission shall
37 establish a technical advisory group to develop recommendations on siting,
38 operational, and monitoring criteria for wind-powered electricity generating facilities
39 relating to avian and bat issues.

1 (2) The technical advisory group shall include the following members:

2 (i) two biologists who are professionally recognized for their
3 expertise in avian issues and behavior, including one from the Department of Natural
4 Resources;

5 (ii) two representatives of wind energy companies;

6 (iii) one representative of an electricity transmission company or
7 other individual with interest and experience in siting and interconnection of
8 electricity transmission facilities with generating facilities;

9 (iv) two representatives of environmental groups; and

10 (v) one representative of the Commission.

11 (3) The technical advisory group shall study and make recommendations
12 on:

13 (i) standards that will avoid or minimize impacts on birds and bats
14 from the construction and operation of wind-energy generating facilities;

15 (ii) a tiered system of standards that vary with the size of the
16 wind-energy generating facility and the associated generating capacity;

17 (iii) additional assessments of avian and bat populations and
18 behavior that may be needed before issuance of a certificate of public convenience and
19 necessity beyond those needed for other types of generating facilities, if any;

20 (iv) additional monitoring studies of avian and bat populations and
21 behavior during and after construction of a facility; and

22 (v) mitigation appropriate to address any impact on avian and bat
23 populations above a threshold level to be included in the certificate of public
24 convenience and necessity for a wind-powered electricity generating facility.

25 (4) In conducting its study, the technical advisory group shall consider
26 guidelines for siting, operation, and avoidance and mitigation of avian impacts under
27 development by the United States Fish and Wildlife Service and by other states.

28 (5) The Power Plant Research Program of the Department of Natural
29 Resources shall assist the technical advisory group in its study and the development
30 of recommendations.

31 (6) On or before June 1, 2005, the technical advisory group shall report
32 its recommendations to the Commission.

33 (7) (i) On or before July 1, 2006, the Commission shall adopt
34 regulations for wind-powered electricity generating facility siting taking into
35 consideration the recommendations of the technical advisory group.

1 (ii) The regulations may not apply to any wind-powered electricity
2 generating facility for which an application for a certificate of public convenience and
3 necessity has been submitted to the Commission before the effective date of the
4 regulations.

5 (b) The General Assembly strongly encourages:

6 (1) the Public Service Commission to exempt from siting, operational,
7 and monitoring requirements wind-energy generating facilities that involve only
8 small turbines for residential, agricultural, and small business use, including
9 facilities installed for net-energy metering;

10 (2) developers of commercial wind-energy generating facilities that
11 involve more than 10 turbines to:

12 (i) conduct at least 1 year of site evaluation, using state-of-the-art
13 techniques, both for the potential for direct mortality of avian species and for impacts
14 from fragmentation and loss of forest and other affected habitat; and

15 (ii) provide the results of the evaluation to the Commission for
16 review in connection with proceedings for the issuance of a certificate of public
17 convenience and necessity;

18 (3) developers of commercial wind-energy generating facilities that
19 involve 10 or fewer turbines to:

20 (i) conduct a shorter-term site evaluation both for the potential for
21 direct mortality of avian species and for impacts from fragmentation and loss of forest
22 and other affected habitat; and

23 (ii) provide the results of the evaluation to the Commission for
24 review in connection with proceedings for the issuance of a certificate of public
25 convenience and necessity; and

26 (4) developers of all commercial wind-energy generating facilities to:

27 (i) conduct post-construction avian mortality studies of the impact
28 of facility operation; and

29 (ii) provide copies to the Commission and, while it exists, to the
30 technical advisory group.

31 SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in
32 Section 3 of this Act, on or before July 1, 2005, the Public Service Commission shall
33 adopt regulations to implement this Act.

34 SECTION 5. AND BE IT FURTHER ENACTED, That the Public Service
35 Commission shall:

1 (1) on or before January 1, 2016, commence a review of the
2 implementation and the environmental and economic impacts of the renewable
3 portfolio standard enacted by this Act, including the impacts of Tier 2 renewable
4 sources;

5 (2) in the course of its review, consult with appropriate scientific,
6 economic, and environmental resources, and with affected communities of interest;

7 (3) develop recommendations concerning the continuation of the
8 renewable portfolio standard for Tier 1 and Tier 2 renewable sources, including the
9 classification of sources in distinct tiers, any recommended alteration to the tier
10 system, whether the tiers should be continued, and if so, at what percentages; and

11 (4) on or before January 1, 2017, report its recommendations to the
12 Governor and the General Assembly, subject to § 2-1246 of the State Government
13 Article.

14 SECTION ~~5~~. 6. AND BE IT FURTHER ENACTED, That Section 2 of this Act
15 shall take effect January 1, 2006.

16 SECTION ~~6~~. 7. AND BE IT FURTHER ENACTED, That, except as provided in
17 Section ~~5~~ 6 of this Act, this Act shall take effect July 1, 2004.